

REPORT TO: Planning Committee
MEETING DATE: 1 November 2022
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

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Application No. **21/01289/P**

Proposal Erection of two retail stores (class 1), car parking, servicing, access and associated works

Location **Land East of Dunbar Garden Centre
Spott Road
Dunbar
East Lothian**

Applicant Hallhill Developments Ltd and Lidl Great Britain Ltd

Per Pritchett Planning Consultancy

RECOMMENDATION Consent Granted

REPORT OF HANDLING

The application site consists of 1.87 hectares of land on the western part of what is currently an agricultural field, and comprises part of the 21 hectare allocated site of Proposal DR7: Land at Spott Road by the adopted East Lothian Local Development Plan 2018. Proposal DR7 allocates the land for employment uses.

The application site is to the east of the existing Dunbar Garden Centre. The field of which this site is a part is bounded to the south by the A1 Trunk Road, to the west in part by McDonalds Drive thru restaurant, in part by an Asda supermarket, in part by Dunbar Garden Centre and in part by the access roads leading to those existing uses. To the north the field is bounded by the Spott Road Industrial Estate and to the east by the embankment of the East Coast Mail Line.

A 3m wide hardsurfaced and lit shared use path crosses the field. It provides a safe and accessible route from the underpass under the East Coast Mail Line across the field to Spott Road to the west providing a route, including a route to school, for the occupants of the new housing developments at Bowmont Terrace and Newtonlees on the east side of the rail line.

In 22 April 2022 planning permission (ref: 20/00916/P) was granted for the laying of infrastructure including roads and footpaths, street lighting and drainage infrastructure within the Proposal DR7 site to facilitate the future development of it. The approved road and footpaths would lead from the existing access road between Asda and the Garden Centre and would terminate at what will be a junction in the road on the east part of the DR7 site; a length of the road would also loop round to the south and would link to the existing access between the McDonalds car park and the Asda supermarket. The approved road would, once formed, bound the application site to the south and east.

PROPOSAL

Planning permission is sought through this application for the erection on the application site of 2 retail units (class 1) and associated works.

The 2 retail units would be positioned adjacent to one another and would each have a broadly rectangular shaped footprint. The westernmost unit is shown on the drawings as 'Unit 1' and the easternmost unit as 'Unit 2'. Both proposed retail units would have their front elevations facing southwards across their car parks towards part of the road approved by the grant of planning permission 20/00916/P.

Unit 1 would be some 77m long, 27m wide and some 6.7m high to the top of the highest point of its roof. Its elevations would mostly be clad in white coloured metal panels. Its front elevation would include a glazed entrance and incorporate framed billboards intended to display advertisements. Its west (side) elevation would incorporate large expanses of glazing. There would be provided a service access at the east side of the front elevation of the building, stepped back from the main building frontage.

The car park for unit 1, which would be in front of the building, would provide 124 car parking spaces, 8 of which would be disabled spaces and 2 would be electric vehicle charging spaces. Also provided would be 6 cycle stands located beneath the building canopy.

Unit 2 would be some 61m long, 35m wide and some 9.5m high to the top of the highest point of its roof. It would be clad in composite cladding panels and would have a large glazed entrance on its front elevation. It would incorporate a garden centre at its east side which would be enclosed by fencing. There would be provided a service yard at the west side of the building.

The car park for unit 2, which would be in front of the building, would provide 102 car parking spaces, 6 of which would be disabled spaces and 2 would be electric vehicle charging spaces. Also provided would be covered cycle parking.

Access to the site for the retail units and delivery service vehicles would be taken from the road approved by the grant of planning permission 20/00916/P. A new pedestrian footpath would be formed along the north side of that road with zebra crossings where it crosses the vehicular access to the retail units. It is shown that a 600mm high stone wall would be erected along lengths of the east, south and west boundaries of the site and a landscaped area would be formed on the eastern boundary of the site.

The application is supported by a flood risk assessment, renewables statement, transport assessment, drainage statement and a planning statement. The planning statement includes a retail impact assessment, and addresses the circumstance of the proposed development relative to the development plan and other material considerations. It concludes that the proposed development would not have an adverse effect on the

vitality and viability of Dunbar Town Centre, and is consistent with the adopted East Lothian Local Development Plan 2018.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 10 November 2021 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018 together with its adopted supplementary guidance.

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual planning applications.

Proposal DR7: Land at Spott Road and Policies CH5 (Battlefields), EMP1 (Business and Employment Location), TC1 ('Town Centre First' Principle), DP1 (Landscape Character), DP2 (Design), DP9 (Development Briefs), CH5 (Battlefields), NH10 (Sustainable Drainage Systems), NH11 (Flood Risk), SEH2 (Low and Zero Carbon Generating Technologies), T1 (Development Location and Accessibility), T2 (General Traffic Impacts) and T31 (Electric Car & Bus Charging Points) are relevant to the determination of the application.

Also relevant to the determination of the application is the Council's Development Briefs Supplementary Planning Guidance, and specifically the DR7 - Spott Road, Dunbar Development Brief contained within it, the Council's Sustainable Drainage Systems (SuDS) Supplementary Planning Guidance and the Council's Dunbar Town Centre Strategy Supplementary Planning Guidance.

Also material to the determination of the application is Scottish Planning Policy: June 2014. It advises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. This means that policies and decisions should be guided by principles, including supporting delivery of accessible housing, business, retailing and leisure development.

Scottish Planning Policy highlights that the planning system should apply a town centre

first policy when planning for uses which attract significant numbers of people, including retail facilities. This requires that locations are considered in the following order of preference:

- town centres (including city centres and local centres);
- edge of town centre;
- other commercial centres identified in the development plan; and
- out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

It further states that Planning authorities, developers, owners and occupiers should be flexible and realistic in applying the sequential approach, to ensure that different uses are developed in the most appropriate locations.

REPRESENTATIONS

A total of 6 written representations have been received in respect of this planning application. Of these, 4 make objection to the proposed development, 1 is in support of it and 1 does not state whether they object to or support the proposed development.

The main grounds of objection can be summarised as follows:

(i) the proposed development would lead to increased traffic on Spott Road would lead to a road and pedestrian safety hazard;

(ii) Dunbar town centre is particularly sensitive to retail impact;

(iii) the proposed development would seriously and adversely affect the attractiveness of Dunbar town centre and High Street both to shoppers and investors and would divert footfall from them;

(iv) the proposed development would cause significant harm to the vitality and viability of Dunbar town centre, contrary to LDP Policy TC1 and Strategic Development Plan Policy 3. The applicant's submitted retail study significantly underestimates the impact of the proposals on Dunbar town centre;

(v) the LDP and its associated guidance support improvements to Dunbar town centre and identify that further retail floorspace at Spott Road would cause harm to Dunbar town centre;

(vi) the proposals, taken together with the existing retail uses at Spott Road, would result in the creation of a retail park, providing more retail floorspace than Dunbar town centre. The Council's strategy for Dunbar town centre, and the LDP hierarchy of centres would be fundamentally undermined by the proposed development;

(vii) there is insufficient expenditure within the Dunbar catchment to support additional convenience retail floorspace and the proposed development cannot be supported without there being significant adverse impacts on Dunbar town centre;

(viii) what is being proposed is essentially a new retail park, providing convenience and comparison outlets on a site which lies immediately adjacent to an existing large Asda superstore, garden centre, hotel, drive thru and petrol filling station. The proposed development and the existing Asda superstore would become the focus for convenience and comparison retailing in Dunbar where shoppers would have access to a broad range

of retail outlets, providing a highly convenient arrangement for the car borne shopper;

(ix) the proposal lacks firm commitments to community benefit;

(x) if out-of-town development results in a high street lined with empty shops, the vibrancy and attractiveness of the town centre would be replaced by a predominantly industrial development next to the A1; and

(xi) the proposed development would be an unwelcome and unnecessary addition to the town, one that would result in additional car journeys being made and siphon customers, investment and attention away from the struggling Dunbar High Street.

The main grounds of support are that that there is a need for retail capacity to match the housing in Dunbar, as at present there is no choice but to leave Dunbar for essential items, and that Dunbar has the potential to become a hub for retail and amenities in East Lothian

COMMUNITY COUNCIL COMMENTS

Dunbar Community Council have commented on the application. They have raised concerns with regards to the potential extra traffic generated by the proposed development on Spott Road, which they state has been increasing due to the considerable level of housebuilding at the Hallhill estates. They also raise concern over increased traffic at the junction of Spott Road and Lochend Road and at the junction of Spott Road with Queens Road. They also raise concern over the wider traffic impacts around Dunbar. They also have concerns over crossing points, advising that there is no safe pedestrian crossing point near the existing garden centre. In terms of economic impact Dunbar Community Council state that some residents have welcomed the incoming of a LIDL and B&M, however, others are concerned that there may be an impact on the viability of Dunbar High Street, which has already been affected by the pandemic by the development of further units at an out of town location. Dunbar Community Council also raise concern over noise and air quality impacts from additional traffic, light pollution, the loss of wildlife habitat and drainage and sewerage disposal.

West Barns Community Council have commented the application. They have also raised concerns with regards to the potential extra traffic generated by the proposed development on Spott Road, which they state has been increasing due to the considerable level of housebuilding at the Hallhill estates. The also raise concern over increased traffic at the junction of Spott Road and Lochend Road and at the junction of Spott Road with Queens Road. They also raise concern over the wider traffic impacts around Dunbar. They also have concerns over crossing points, advising that there is no safe pedestrian crossing point near the existing garden centre. In terms of economic impact West Barns Community Council state that some residents have welcomed the incoming of a LIDL and B&M, however, others are concerned that there may be an impact on the viability of Dunbar High Street, which has already been affected by the pandemic by the development of further units at an out of town location West Barns Community Council also raise concern over the loss of wildlife habitat and drainage and sewerage disposal.

PLANNING ASSESSMENT

The adopted Development Brief DR7 – Spott Road, Dunbar has been prepared for the wider allocated employment site of which this site is a part of, and sets out six guiding

principles to be followed for its development, which have been taken into account in this application.

The proposed two retail units would principally be designed for the functionality of their intended use. They would be seen in relation to the existing developments to the west, namely the Dunbar Garden Centre, McDonalds Drive thru restaurant and Asda supermarket, which are all buildings designed for their commercial functions. Furthermore the proposed buildings may well in time be seen in relation to future buildings on the wider Proposal DR7 site. In this regard, the proposed buildings would sit comfortably in their intended locations and would not appear as alien or incongruous features in their proposed location. They would not appear as prominent or intrusive features, harmful to the visual amenity of the area.

The buildings would be of a size, scale and design appropriate to their location and would not be an over development of the site. In their positional relationships with the main buildings, neither would the car parking areas, access roads and other associated development of the site. The retained tree planting and proposed landscaping would reduce the impact of the development in public views of it. In all of this the retail units, car park and other associated development, by virtue of their design scale and position are appropriately designed for their place and would not be inappropriate to their setting or harmful to the character or appearance of the area.

The **Council's Landscape Projects Officer** has appraised the applicant's proposed scheme of landscaping for the site, and advises that a revised landscaping plan should be submitted to include for low ground cover planting in place of the slate chippings shown on the application drawings, and that hedge planting should be included to the north of the site and on the east side of the fencing surrounding the garden centre element of unit 2. The Landscape Projects Officer advises that such proposed landscaping would help to absorb the impact of the proposed development and would provide attractive landscaped edges to it. The requirement for a revised scheme of landscaping can be imposed as a condition on a grant of planning permission for the proposed development. Subject to this landscaping the proposed development would successfully integrate into its landscape setting and would not appear harmfully prominent, incongruous or intrusive in this location.

There are no nearby residential properties and therefore the proposed development would not harm the amenity of any nearby residential property or neighbouring land use. The **Council's Senior Environmental Health Officer** raises no objection to the application.

The **Council's Environmental Health Officer (Contaminated Land)** advises that there is the potential for areas of contamination to exist and thus there is therefore the potential for pollutant linkages to exist on the site that may impact upon the proposed development. Therefore he recommends a Geo-Environmental Assessment be undertaken prior to the commencement of development on the site. The requirement for such assessment can be controlled by a condition attached to a grant of planning permission.

The **Council's Waste Services Officer** has confirmed that they have no objection to the proposal.

On these considerations of layout, design, and amenity, the proposed retail development is consistent with Policies DP1, DP2 and DP9 of the adopted East Lothian Local Development Plan 2018.

Historic Environment Scotland raise no objections to the application being satisfied that it would not have a significant adverse affect on the key features of the Battle of Dunbar II historic battlefield site.

The **Council's Archaeology/Heritage Officer** advises that the application site lies within the area designated for the Battle of Dunbar II and therefore considered that the proposed development has a high potential to impact upon buried archaeological remains. He therefore advises that if planning permission is to be granted for this proposal, a Programme of Archaeological Works (Metal Detecting Survey and Archaeological Evaluation by Trial Trench) be carried out at the site prior to the commencement of development. This requirement can be secured through a condition attached to a grant of planning permission.

Subject to the above recommendation, which could be secured by condition, the proposed development is consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018, Planning Advice Note 2/2011: Planning and Archaeology and Scottish Planning Policy: June 2014.

The applicant has advised that the surface water drainage strategy for the site has been developed from the principles of Sustainable Drainage Systems (SuDS) as set out in CIRIA Report C753, The SuDS Manual (2015). The strategic surface water drainage network will be designed in accordance with Sewers for Scotland, 4th Edition (Scottish Water, 2018) and shall remain private to the point of connection to the proposed public drainage network.

The **Council's Civil Engineer Technician – Flooding** has considered the submitted Flood Risk and Drainage Assessments and is satisfied with the contents and conclusions of them. The Civil Engineer Technician – Flooding therefore raises no objection to the proposed development on the grounds of flood risk or drainage subject to the imposition of a condition requiring confirmation of Scottish Water's technical approval for the surface water drainage for the site.

Scottish Water raise no objection to the proposed development, advising that there is sufficient capacity locally for the supply of water and treatment of foul waste from the site.

The Scottish Environment Protection Agency have no objection to the proposal on flood risk or drainage grounds.

On these considerations of SuDS design, flood risk and drainage the proposals are consistent with Policies NH10 and NH11 of the adopted East Lothian Local Development Plan 2018 and with the Council's Sustainable Drainage Systems (SuDS) Supplementary Planning Guidance.

The Council's Road Services advise the applicant's submitted Transport Assessment recognises the need for a high-quality pedestrian and cycle network linking the application site with the existing town centre and the train station. Road Services advise this needs to be achieved by the construction of a fully signalised junction in place of the current roundabout at the Kellie Road/ Spott Road junction, which would provide safe access for pedestrian and cyclists to cross Spott Road to reach the site.

Road Services are satisfied the site can be safely accessed and would cause no harmful impact on the operation of the road network, subject to:

(i) the infrastructure works including paths and footways which are the subject of

planning permission 20/00916/P having been implemented prior to any use being made of the proposed retail units;

(ii) the Spott Road/Kellie Road roundabout being upgraded to a fully signalised junction with pedestrian and cyclist crossing facilities on each arm;

(iii) the investigation of the provision of more direct active travel path links to the west (Dunbar Garden Centre) and east (the road which is the subject of planning permission 20/00916/P);

(iv) the provision of revised arrangements for cycle parking and electric vehicle car charging points;

(v) the submission of a Travel Plan to minimise private car trips and to encourage use of alternative modes of transport;

(vi) the submission of a Construction Method Statement; and.

(vii) wheel washing facilities being provided.

Subject to the above recommended conditions, which can be imposed as conditions on a grant of planning permission, the proposed development is consistent with Policies T1, T2 and T31 of the adopted East Lothian Local Development Plan 2018.

Transport Scotland raise no objection to the proposed development.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 states that new development will only be permitted where the developer makes provision for infrastructure required as a consequence of their development. Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework Supplementary Guidance.

The Planning Obligations Officer advises that the contributions required for each transport intervention for this development are:

- * Improvements to Old Craighall junction: £52.90
- * Improvements to Salters Road Interchange: £233.22
- * Improvements to Bankton Interchange: £85.33
- * Musselburgh Town Centre improvements: £23.69
- * Tranent Town Centre Improvements: £29.90

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £425.04.

The total developer contributions towards the transportation interventions of £425.04 can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to enter into such an agreement.

Notwithstanding the above technical considerations, a material consideration in the determination of this application is whether or not the principle of the proposed retail development accords with development plan policy and other supplementary planning guidance, and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

The application site is within an area covered by Proposal DR7 of the adopted East Lothian Local Development Plan 2018. Proposal DR7 allocates the site for employment uses. Proposal DR7 states that any new development proposals for the site must include a comprehensive masterplan for the entire allocated site that conforms to the relevant Development Brief. Any development here is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network as appropriate. Proposal DR7 further confirms that Policy EMP1 applies.

Policy EMP1 states that within areas allocated for business and employment, uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are supported. Other employment generating uses may also be supported in these locations subject to the town centre first principle (Policy TC1) and provided there would be no amenity conflicts or other unacceptable impacts. Proposals to redevelop employment sites or premises for other employment generating uses will only be supported where the uses proposed do not prejudice or inhibit the activities of a nearby employment use.

Proposals must not adversely affect amenity and must be able to co-exist satisfactorily with existing or proposed uses on the site and in the surrounding area.

Policy TC1 of the adopted East Lothian Local Development Plan 2018 states that a sequential 'town centre first' approach will be applied where appropriate to retail, commercial leisure, office and other development proposals that would attract significant footfall. Applicants should provide evidence that locations have been considered in the following order of preference:

1. Town centre or local centre;
2. Edge of town centre or local centre;
3. Other commercial centre;
4. Out-of-centre locations.

The proposal would be an employment generating use. On this matter, the applicant estimates that the proposed development in total would generate some 80 jobs.

With regard to whether the proposed development would prejudice any existing employment use, there is no reason in principle why the proposed retail uses could not satisfactorily co-exist with the nearby existing employment uses. On this matter, the application site is not bound by any sensitive land uses, with no nearby residential properties.

With regard to the sequential 'town centre first' approach as stated in Policy TC1 of the adopted East Lothian Local Development Plan 2018 the application site is in a edge of local centre location.

The applicant's submitted Retail Impact Assessment (RIA) states that there are no sites or large buildings within Dunbar Town Centre which are capable of accommodating large scale retail stores particularly with adjacent surface level car parking and that the town centre does not have any industrial legacy where sites or buildings are vacant or could be converted to large scale retail use.

The applicant's RIA further states that the sequential approach to site selection identifies a hierarchy of centres to which retail development should be directed. In Dunbar there is a second recognised centre identified as a local centre at Spott Road which includes the current Asda store and garden centre. The local centre at Spott Road is tightly defined

around existing uses with no expansion land identified.

Therefore the applicant's RIA concludes there is no space within the Dunbar Town Centre or the Spott Road local centre to accommodate the proposed development, so the application site has been chosen as an alternative edge of local centre location.

Given the constraints of existing Town Centre sites, it is accepted that there are no sites in Dunbar Town Centre or the Spott Road local centre that could accommodate the proposed development. On this consideration, the sequential test is met.

Policy TC1 of the adopted East Lothian Local Development Plan 2018 also requires that the scale of any new development should be appropriate to the scale of settlement and the role and function of the centre where it is proposed, and in this regard it is necessary to consider whether the proposed development would adversely affect the vitality or viability of Dunbar Town Centre.

The Dunbar Town Centre Strategy Supplementary Planning Guidance seeks to guide the improvement of Dunbar Town Centre. It should be noted that Appendix 1 of the Guidance identifies that a potential threat to Dunbar Town Centre is if the Spott Road local centre is expanded, which could attract residents away from the town centre. It should also be noted however that Appendix 1 of the Guidance also identifies that a weakness of the town centre is that a high proportion of retail expenditure, particularly on comparison goods, is made outwith the town.

The proposed Unit 1 (shown on the application drawings as potentially being a Lidl) would comprise of 1900 sq m gross/1256 sq m net retail floor space. Of this some 80% of the sales floor space would be for convenience goods and 20% for comparison goods.

The proposed Unit 2 (shown on the application drawings as potentially being a B&M store) would comprise of 2137 sq m gross/1923 sq m net retail floor space. Of this some 40% of the sales floor space would be for convenience goods and 60% for comparison goods.

The applicant's RIA advises that the proposed retail stores would be operated by Lidl and B&M, and that such retailers are not represented in Dunbar and would add a new dimension to retailing in Dunbar. The RIA informs that those retailers would capture local trade which would normally be expected to travel to similar stores in North Berwick and Haddington and would also capture comparison trade that is likely to leak to larger, accessible discount stores in Edinburgh.

The applicant's RIA informs that there is a compelling qualitative case for the introduction of discount retailers in Dunbar and it is now well established in the retail market place that shoppers are looking for quality products at lower prices and these types of retailers are established in out of centre locations elsewhere in East Lothian and in particular in the competing towns of North Berwick and Haddington. Dunbar residents and the surrounding hinterland are currently missing out on this form of retailing which is a growing and dynamic sector of the retail market. This lack of retail provision is evidenced by the leakage of expenditure that is occurring.

The applicant's RIA continues that Dunbar is a historic town centre which does not rely on main food shopping for its vitality and viability. The existing Co-op store is capable of expansion and upgrade but has not been invested in by the owner to capture shopping trade which exists and the former adjacent Somerfield store is no longer in food retail use. It is evident that the Asda store at Spott Road is the largest and most popular store in Dunbar. As Dunbar has expanded and the nearest competing towns have upgraded

their retail function it is evident that there will have been increased leakage in food and comparison expenditure which would continue without this development, particularly to the new retail park in Haddington. This proposal is aimed at ensuring that Dunbar is as self-sufficient as possible in retail provision, reclaiming leaked expenditure where this exists and complementing the existing stores in the town. The benefit of the development will be in making Dunbar as a town a more sustainable and self-sufficient retail destination with the new stores reducing the need for shoppers to travel further afield especially for every day goods. This will be a major benefit for the less well-off and least mobile members of the community who are currently disadvantaged.

In order to assess any potential impact on the vitality or viability of Dunbar Town Centre and to assess the applicant's submitted retail impact assessment, the Planning Service commissioned Roderick MacLean Associates Ltd to undertake a review of the applicant's supporting information and in this capacity has provided a consultation response to the application.

In terms of comparison spend, Roderick MacLean Associates Ltd advise that the comparison element of the proposed retail developments is unlikely to threaten the vitality and viability of Dunbar Town Centre, as they estimate that some 65% of the turnover of the proposed development would come from clawback of expenditure leakage by Dunbar residents to centres in Edinburgh, 10% of the trade diversion may come from ASDA because of its proximity and range of comparison goods, another 10% of the trade diversion is estimated to come from shops in Dunbar town centre and again 15% from other centres and stores in the rest of East Lothian.

In terms of convenience spend, Roderick MacLean Associates Ltd advise that the town centre convenience stores account for some 44% of the turnover in the Dunbar catchment, with ASDA accounting for some 55% of turnover, therefore the convenience shops in the town centre are very important to serving the residents of Dunbar. Roderick MacLean Associates Ltd continue that based on the proportions of convenience expenditure inflow to the Dunbar catchment, they estimate that 85% of the turnover of the proposed development would derive from residents of the Dunbar catchment and 15% from beyond, stating that there is no particular reason why a greater proportion of shoppers would be attracted from outside the catchment, because of its location. Roderick MacLean Associates Ltd conclude that the retail impact on stores in Dunbar Town Centre could be up to some 27%, which they say is a high level of impact. In their view, this level of impact may adversely effect the vitality and viability of Dunbar Town Centre.

As the proposed development may have an adverse effect on the vitality and viability of Dunbar Town Centre, it is contrary to Policy TC1 of the adopted East Lothian Local Development Plan 2018, and is also therefore contrary to Policy EMP1 of the Plan.

However, it is now necessary to consider whether or not there are any other material considerations that outweigh this policy conflict.

Roderick MacLean Associates Ltd advise in their consultation response that there is a reasonable argument that a qualitative retail deficiency exists in the Dunbar catchment which the proposed retail units could fill. Qualitative deficiency refers to the range and quality of the retail offer in a catchment area, including ready access to shops without having to travel far, and can include consideration of the types of retail floor space and format.

Roderick MacLean Associates Ltd advise that there are no discount foodstores in Dunbar and no budget mixed goods stores, the nearest stores include Aldi and Home

Bargains in Haddington (some 13.6 miles/ 18 minutes' drive) and Aldi at North Berwick (some 11.6 miles/ 22 minutes' drive). Other towns in East Lothian have representation by these types of retailers; Lidl and Aldi are in Musselburgh, along with B&M and Home Bargains. Lidl and B&M are in Prestonpans and Aldi is in Tranent. Roderick MacLean Associates Ltd conclude that a qualitative retail deficiency exists in the Dunbar catchment, but continue to advise that the scale of the proposed convenience floorspace element may threaten the vitality and viability of Dunbar Town Centre, the threat relating to the trade diversion from town centre shops.

Roderick MacLean Associates Ltd advise that in the case of Dunbar, the level of expenditure leakage indicates that the existing stores are not meeting residents' demand. Roderick MacLean Associates Ltd advise that there is convenience expenditure leakage from Dunbar of some £14.1 million each year, mostly going to Haddington. So, there is a quantitative deficiency associated with the existing qualitative deficiency, this being a situation where there is surplus catchment residents' expenditure which is not being serviced by the existing retail floor space.

In response to the consultation response from Roderick MacLean Associates Ltd, the applicant's agent has submitted a Response to Retail Issues report (RRI). This report informs that Roderick MacLean Associates Ltd estimates that that the outflow of expenditure from Dunbar is in the order of £14.1 million each year, which equates to nearly 37% of all available convenience expenditure and therefore Dunbar is leaking ever more spending which is unsustainable leading to longer and unnecessary shopping journeys.

The RRI informs that the proposed Lidl store at the application site is estimated to have a convenience turnover of £8.1m and the convenience floorspace in the B&M store is around £5.3m equating to a total of £13.4m which is less than the outflow of expenditure, and therefore the result of the proposed development would be to significantly reduce outflow of locally generated spending and to enable Dunbar to have a more sustainable and self-contained convenience retail market. The proposed development could also lead to local people not having to make round trips to either Haddington or North Berwick to undertake shopping trips.

The RRI continues that the amount of leakage of expenditure from Dunbar demonstrates that customers are clearly taking the view that shopping provision locally is inadequate and are shopping elsewhere. The range of shopping locally does not therefore match shoppers' aspirations and the leaked expenditure needs to be addressed. Leaked expenditure and the lack of retailing locally of the nature proposed indicates both a quantitative and qualitative need for the development.

The RRI concludes that there is a qualitative need for the proposed new retail stores as there is long term significant leakage of expenditure from Dunbar, and that the proposed new stores would:

- (i) Significantly reduce leaked expenditure;
- (ii) Provide meaningful competition and choice to Asda leading to lower prices and better service in a policy supported location;
- (iii) Expand the local retail market by enticing more shoppers from outwith the area to come to Dunbar from which all retailers can benefit;
- (iv) Provide a similar choice of shopping provision that is found in all other major towns in East Lothian;
- (v) Be located on a site which is supported by policy on the sequential approach;
- (vi) Be appropriate in scale for the town and in relation to the local Centre;

- (vii) Enhance the role and function of the adjacent local centre; and
- (viii) Be in accordance with development plan policy.

From the applicant's submitted information and the consultation response from Roderick MacLean Associates Ltd, it can be concluded that a retail qualitative deficiency exists in Dunbar, in that there is expenditure leakage from Dunbar due to the lack of range and quality of the existing retail offering, particularly when it comes to the lack of large discount foodstores and budget mixed goods stores such as Lidl and B&M. It is also acknowledged that there is no suitable alternative sites to accommodate the proposed development in Dunbar Town Centre or the Spott Road local centre.

Although the consultation response from Roderick MacLean Associates Ltd concludes that a qualitative retail deficiency exists in the Dunbar catchment, it also informs that the scale of the proposed convenience floorspace element may impact on the vitality or viability of the town centre, including possible closures. Although this is disputed by the applicant's submitted Retail Impact Assessment.

However the impact on the convenience floor space in the town centre has to be weighed against the acknowledged qualitative retail deficiency that exists in the Dunbar catchment, the resultant leakage of expenditure to other towns in East Lothian which involves car journeys and the job creation that would accrue from the proposed development.

In this regard, the Council's Economic Development Team Manager advises that the level of proposed convenience floorspace could create an impact that would adversely affect the vitality and viability of Dunbar town centre, but however advises that the determination of the application will require a decision on the benefits of claw back of leakage and associated reduction of shopping trips to centres beyond Dunbar.

The Council's Economic Development Team Manager advises that Dunbar Town Centre has a diverse offering with a number of non-retail outlets, with the convenience elements including 2 Co-op stores, RS McColls, fishmonger, butcher, baker and greengrocer. However, the Economic Development Team Manager advises that the town centre does not rely primarily on convenience retailing and acknowledges that there is no discount foodstore in Dunbar and that the proposed development would therefore result in a qualitative enhancement of the retail offering in the town, would result in job creation and moreover, would prevent expenditure leakage from Dunbar, as currently some residents choose to visit discount foodstores elsewhere.

Therefore, on balance, the Economic Development Team Manager does not object to the proposed development.

In all of the above considerations although the proposed development may adversely effect the vitality and viability of Dunbar Town Centre and thus have a resultant impact on individual shops in terms of loss of convenience expenditure, this impact would be outweighed by the qualitative retail gap the proposed two retail units would fill. Moreover, it can reasonably be concluded that the enhanced qualitative retailing offering provided by the proposed development would serve to prevent acknowledged expenditure leakage to other towns, which would be better kept within Dunbar and could encourage more people to shop locally. This in turn could lead to a reduction in car journeys undertaken to visit discount retailers/ budget mixed goods stores elsewhere in East Lothian, which would result in a more sustainable development which supports the Council's key outcomes in declaring a Climate Emergency and could encourage less car travel and a consequential reduction in carbon emissions. The proposal would also create jobs and therefore would help support the local economy.

In conclusion, it is considered the above material considerations would outweigh the adverse effect on the vitality and viability of Dunbar Town Centre. In this regard, the proposal is therefore not inconsistent with Scottish Planning Policy and Policy EMP1 of the adopted East Lothian Local Development Plan 2018. It also does not conflict overall with the aims and objectives of the Council's Dunbar Town Centre Strategy Supplementary Planning Guidance.

It would however be prudent to restrict the size of the retail stores to that applied for, namely for Unit 1 a gross floor area no greater than 1900 square metres and a net sales floor area no greater than 1256 square metres of which no more than 1005 square metres should be used for the sale of convenience goods, and for Unit 2, a gross floor area no greater than 2137 square metres and a net sales floor area no greater than 1923 square metres of which no more than 769 square metres should be used for the sale of convenience goods.

In conclusion, it is considered that for the reasons set out above, the proposed development accords overall with the relevant provisions of the development plan and that other material considerations, principally the enhanced qualitative retailing offering provided, the reduced expenditure leakage, sustainability benefits and economic benefit, are sufficient to outweigh any adverse effect on the vitality and viability of Dunbar Town Centre.

At its meeting on Tuesday 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3 September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the buildings and from the completed development should be imposed on relevant applications for planning permission, which should include the provision of electric car charging points. Such a condition should be imposed on a grant of planning permission for this proposed development, consistent with the requirements of Policies T31 and SEH2 of the adopted East Lothian Local Development Plan 2018.

The decision to grant this planning permission is subject to the prior conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or by some other appropriate agreement, designed to:

- (i) secure a financial contribution to the Council of £425.04 for transport improvements.

In accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision also is that in the event of a Section 75 Agreement or other agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by an agreement the proposed development is unacceptable due to a lack of roads and transport infrastructure improvements, contrary to Policies DEL1 and T32 of the adopted East Lothian Local Development Plan 2018.

CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 3 The retail unit hereby approved as shown as 'Unit 1' on the drawings docketed to this planning permission shall have a gross floor area no greater than 1900 square metres and a net sales floor area no greater than 1256 square metres. Of the net sales floor area no more than 1005 square metres shall be used for the sale of convenience goods. The retail unit shall not be subdivided to form more than 1 retail unit.

Reason:

In order to retain control over the format of retail development at the site and in the interests of safeguarding the vitality and viability of the retail function of Dunbar Town Centre.

- 4 The retail unit hereby approved as shown as 'Unit 2' on the drawings docketed to this planning permission shall have a gross floor area no greater than 2137 square metres and a net sales floor area no greater than 1923 square metres. Of the net sales floor area no more than 769 square metres shall be used for the sale of convenience goods. The retail unit shall not be subdivided to form more than 1 retail unit.

Reason:

In order to retain control over the format of retail development at the site and in the interests of safeguarding the vitality and viability of the retail function of Dunbar Town Centre.

- 5 Prior to the commencement of development a detailed specification and, if requested, samples, of all external finishes to be used in the proposed development shall be submitted to and approved by the Planning Authority. The external finishes used in the development shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 6 Prior to any use being made of the two retail units hereby approved, the proposed access roads, parking spaces and footpaths to serve them shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the use of the retail units, and shall not

be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 7 Prior to any use being made of the two retail units hereby approved the infrastructure works, including paths and footways, which are the subject of planning permission 20/00916/P shall be implemented in full.

Reason:

To ensure the development can be safely accessed in the interests of road and pedestrian safety.

- 8 Prior to any use being made of either of the two retail units hereby approved the Spott Road/Kellie Road roundabout shall be upgraded to a fully signalised junction with pedestrian and cyclist crossing facilities on each arm. Details of the signalised junction, including a timetable for its implementation, shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved, unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure the development can be safely accessed in the interests of road and pedestrian safety.

- 9 Prior to the commencement of development the applicant shall:

(i) investigate whether or not it is feasible to form direct active travel path links from the application site to the west towards Dunbar Garden Centre, and to the east to the road the subject of planning permission 20/00916/P; and

(ii) details of this investigation and of any feasible footpath routes shall be submitted to and approved in writing by the Planning Authority. If there is a feasible route then the details shall include a timetable for the formation of the footpaths.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of promoting sustainable modes of transport.

- 10 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to commencement of development, details of revised proposals for cycle parking, including a timetable for their provision, shall be submitted to and approved in writing by the Planning Authority. Thereafter the cycle parking shall be provided in accordance with the details so approved, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of promoting sustainable modes of transport.

- 11 A Travel Plan shall be submitted to and approved by the Planning Authority prior to any use being made of the two retail units hereby approved. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, shall include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents. It shall also include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the development.

- 12 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic, shall include hours of construction work and routes of construction traffic to/from the site. It shall also include any temporary measures to be put in place to control surface water drainage during the construction of the SuDS, and state that the existing route to school path from the railway underpass to Spott Road must remain open at all times. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

The Construction Method Statement shall also include details of wheel washing facilities to be provided, and that these facilities shall be maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 13 Prior to commencement of development, confirmation of Scottish Water's technical approval of the surface water drainage proposals for the development hereby approved shall be submitted to and approved by the Planning Authority.

Reason:

To ensure that the drainage design can be vested by Scottish Water in the interest of flood prevention.

- 14 No development shall take place on the site until the applicant has undertaken and reported upon a programme of archaeological work (Metal Detecting Survey and Archaeological Evaluation by Trial Trench) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 15 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

1. (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment); and

(ii) A Phase II Ground Investigation (if the Desk Study has determined that further assessment is required), comprising the following:

o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;

o An appraisal of the remediation methods available and proposal of the preferred option(s).

The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the relevant guidance and procedures.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

2. Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development; and

3. Following completion of the measures identified in the approved Remediation Statement, a Verification Report should be submitted that demonstrates the effectiveness of the remediation carried out.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable.

- 16 In the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

Reason:

To ensure that the site is clear of contamination.

- 17 Prior to the commencement of development, detail of the red sandstone wall and red sandstone pillars to be erected on the application site shall be submitted to and approved by the Planning Authority. The detail shall include a timetable for its provision. Thereafter the red sandstone wall and red sandstone pillars shall be erected on the application site in accordance with the approved details prior to any use being made of either of the two retail units hereby approved.

Reason:

In the interests of achieving an appropriate landscaped setting for the development.

- 18 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to the commencement of development, a revised detailed scheme of landscaping shall be submitted to and approved by the Planning Authority. The revised scheme of landscaping shall show the replacement of slate chips on the south side of the car park with turf or low planting, and the planting of feature trees such as fastigiated oaks along the south side of the site, both on the south side of the stone feature wall and at either side of the vehicular accesses to each of the buildings hereby approved.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any of the buildings or the completion of the development, whichever is the sooner. Any trees in the approved scheme of landscaping which die, are removed or become seriously damaged or diseased within ten years of completion of the development shall be replaced in the next planting season with others of similar species and final size, unless the Planning

Authority gives written consent to any variation. All new planting comprised in the scheme of landscaping shall be retained and maintained unless the Planning Authority gives written consent to any variation.

Reason:

In the interests of achieving an appropriate landscaped setting for the development.

- 19 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to the commencement of development, a revised scheme for the provision of car charging points and associated infrastructure for them, where feasible and appropriate in design terms, shall be submitted to and approved in writing by the Planning Authority. The scheme shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the charging points scheme so approved.

Reason:

To minimise the environmental impact of the development.

- 20 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

